

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

PUBLIC SERVICES – Prohibition and Excise Department – Request of Sri R. Kishan, Assistant Prohibition & Excise Superintendent for declaration of probation within the normal period in the cadre of Prohibition & Excise Inspector by invoking rule 16(h) of Andhra Pradesh State and Subordinate Services Rules, 1996 – Orders – Issued.

REVENUE (Excise-I) DEPARTMENT

G.O.Ms.No.1253

Dated:30.09.2010.

Read the following: -

1. G.O.Rt.No.2220, Revenue (Ex.I) Department,dated: 21.11.2003.
2. Representation of Sri R.Kishan, P&EI, SHO, Uppal, Rangareddy District dated: 23.06.2005.
3. Hon'ble APAT orders dated: 23.04.2010 in O.A.No.1710/2008 filed by Sri R.Kishan, P&EI.
4. From the CPE Cr.No.2707/2008/CPE/L4, Dated: 04.06.2010.

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ORDER:

Sri R.Kishan was appointed as Prohibition and Excise Sub-Inspector in Zone-VI under ST category. He joined duty on 2.11.1996. Subsequently, the Andhra Pradesh Public Service Commission has selected (3) other candidates viz., Sri A. Srinivas Reddy, Sri R.Tukya and Sri D. Srinivas Reddy as Prohibition and Excise Inspectors in the deleted vacancies on 29.5.1997. Among the (3) Excise Inspector candidates, Sri R.Tukya, who belongs to ST community, was having less marks than Sri R. Kishan. After appointment of the above (3) candidates, Sri R.Kishan, the then Proh. & Excise Sub-Inspector filed O.A.No.1407/98 before the Hon'ble Tribunal praying that his case be considered for the post of Prohibition and Excise Inspector as per his merit. The Hon'ble Andhra Pradesh Administrative Tribunal in its orders dt: 16.5.2001 has directed to consider the claim of Sri R.Kishan, Proh. & Excise Sub-Inspector for appointment as Excise Inspector in Zone-VI in case any other person who secured less marks than the applicant has been selected to the post of Excise Inspector.

2. In pursuance of the above directions of the Hon'ble Tribunal, Government have issued instructions in Memo.No.40609/Excise.I (2)/2001-1, Dated: 16.7.2001 to appoint Sri R. Kishan, Proh. & Excise Sub-Inspector as Excise Inspector. Accordingly, Sri R. Kishan, Proh. & Excise Sub-Inspector was appointed as Prohibition & Excise Inspector with retrospective effect from 29.05.1997.

3. Government have observed that having claimed retrospective appointment from 29.05.1997 in the cadre of Prohibition & Excise Inspector, Sri R. Kishan was liable to pass all the prescribed Departmental Tests within the period of probation commencing from 29.05.1997. The probation period was up to 29.5.2000. However, he passed the last Departmental Tests i.e. Excise Departmental Test-"A" on 12.5.2001 beyond the period of his probation. The failure of the individual to pass the prescribed Departmental Tests within the period of probation attracts the penal provision contained in Rule 16 (h) of A.P. State and Subordinate Service Rules, 1996.

4. In terms of the above rule, the Govt. vide G.O.Rt.No.2220, Revenue (Ex.I) Dept., dt: 21.11.2003 have extended the period of probation of Sri R. Kishan up to the date of passing of the last Departmental test i.e. 26.7.2001 and ordered that he shall be deemed to have commenced his probation in the category of Prohibition and Excise Inspector w.e.f. 25.7.1999. In view of such extension of probation, Sri R. Kishan was eligible for seniority in the cadre of Prohibition and Excise Inspector w.e.f. 25.7.1999 in terms of Rule-16 (h) of A.P. State and Sub-Ordinate Service Rules, 1996.

(P.T.O.)

5. In the final seniority list dt.3.9.2007 of Prohibition & Excise Inspector of Zone-VI the name of Sri R.Kishan was placed at Sl.No.131 (Rank No.305) as per his revised date of regularization i.e., 25.7.1999 in terms of Rule-16(h) of A.P. State and Subordinate Service Rules, 1996.

6. Aggrieved by the orders in G.O.Rt.No.2220, Revenue (Ex.I) Dept., dt.21.11.2003, Sri R. Kishan, Prohibition & Excise Inspector has filed O.A.No.1710/2008 praying the Hon'ble Tribunal to declare the impugned seniority list Dt.03.09.2007 and G.O.Rt.No.2220, Revenue (Ex.I.2) Department, dated:21.11.2003 as illegal.

7. The Hon'ble Andhra Pradesh Administrative Tribunal has passed the following final orders dt.23.04.2010 in O.A.No.1710/2008 filed by R.Kishan, Prohibition & Excise Inspector: -

"x x x Having regard to the facts and circumstances obtaining in this case and for the foregoing reasons, the impugned G.O.Rt.No.2220, Revenue (Ex.I(2)) Department, dated:21.11.2003 is hereby set aside and there shall be a direction to the respondents to restore the date of commencement of probation of the applicant in the category of Prohibition and Excise Inspector w.e.f. 29.05.1997 and fix his seniority in terms of ranking assigned by the APPSC and accord all consequential benefits by duly relaxing Rule 16(h) of the General Rules."

8. The Commissioner of Prohibition & Excise, A.P., Hyderabad, in his letter fourth read above, has stated that as per the orders in G.O.Rt.No.2220, Revenue (Ex.I) Department, dt.21.11.2003 in the final seniority list of Prohibition & Excise Inspectors, dated:03.09.2007, the name of Sri R. Kishan was placed at Sl.No.213/A. As per the orders dt.23.04.2010 of the Hon'ble Andhra Pradesh Administrative Tribunal, relaxation to Rule 16(h) has to be issued in favour of the applicant and he has to be placed at Sl.No.195/A i.e., below Sri R. Mahipal Reddy and above Sri K. Vijay Bhasker in the final seniority list of Prohibition & Excise Inspectors of Hyderabad Division dt.3.9.2007. He has further stated that the powers of relaxation of rules as directed by the Hon'ble Tribunal are also vested with the Government.

9. The Commissioner of Prohibition and Excise, A.P., Hyderabad has requested the Government to issue necessary orders on the judgment of Hon'ble Andhra Pradesh Administrative Tribunal.

10. Government have observed that as per the instructions issued in Memo.No.40609/Ex.I(2)/2001-1, Revenue Department, dt.16.07.2001 Sri R. Kishan was retrospectively appointed as Prohibition and Excise Inspector w.e.f. 29.05.1997 since he secured more marks than the ST selected candidate in Zone-VI. He passed the departmental tests by 26.07.2001. Since the orders of appointment were issued to him on 16.07.2001 ante-dating his appointment w.e.f. 29.05.1997, he ought not be penalised for not passing the departmental tests within the deemed period of probation.

11. The Government, after careful examination of the matter and keeping in view the orders of Hon'ble Andhra Pradesh Administrative Tribunal dated:23.04.2010 in O.A.No.1710 of 2008 and the specific circumstances of the case, i.e., ante-dating of his appointment as Prohibition & Excise Inspector, have decided to relax rule 16 (h) of Andhra Pradesh State and Subordinate Services Rules, 1996 in favour of Sri R.Kishan by invoking the powers of relaxation conferred under Rule 31 of A.P.State & Subordinate Services Rules, 1996 in supersession of orders issued in G.O.Rt.No.2220, Revenue (Ex.I) Department, dated:21.11.2003.

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12. Accordingly, in supersession of orders issued in G.O.Rt.No.2220, Revenue (Excise.I) Department, dt.21.11.2003, Government hereby order to relax rule 16(h) of Andhra Pradesh State & Subordinate Services Rules, 1996 in favour of Sri R.Kishan, Asst. Prohibition and Excise Superintendent and to declare that he shall be deemed to have completed his probation within the normal period of probation in the cadre of Prohibition & Excise Inspector.

13. The Commissioner of Prohibition and Excise, A.P., Hyderabad shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Prohibition and Excise, A.P., Hyderabad
Sri R.Kishan, P&EI now AP&ES **through** Commissioner of Prohibition
and Excise, A.P., Hyderabad.

Copy to:

The Govt. Pleader for Revenue (Ser.), APAT, Hyderabad.
The P.S. to Prl.Secy. to C.M.
The P.S. to Prl. Secy. to Govt. (Excise & CT)
The General Admn. (Ser.D) Department,
The P.S. to Secy., Legal Affairs, Law Dept.,
SF/SCs.

//FORWARDED :: BY ORDER//

SECTION OFFICER